

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF MISSISSIPPI
OXFORD DIVISION**

CARL MALONE

PLAINTIFF

v.

No. 3:22-cv-00035-NBB-JMV

COOKE INSURANCE CENTER, INC., ET AL.

DEFENDANTS

ORDER STRIKING AMENDED COMPLAINT

This matter is before the court on Defendants' Motion to Strike Amended Complaint [42]. The *pro se* plaintiff, Carl Malone, filed an amended complaint [41] on October 21, 2022. However, because Plaintiff's time for amending once as a matter of course has now passed, he must seek leave from the Court to amend prior to filing an amended complaint. Accordingly, the amended complaint [41] shall be stricken.

At this juncture, any amendment falls under Fed. R. Civ. P. 15(a)(2), which states that "a party may amend its pleading only with the opposing party's written consent or the court's leave." Further, Local Uniform Civil Rule 15 states that "If leave of court is required under Fed. R. Civ. P. 15, a proposed amended pleading must be an exhibit to a motion for leave to file the pleading." Plaintiff's failure to seek leave of Court prior to filing the amended complaint makes the filing improper.

Therefore, the amended complaint [41] is hereby stricken. Plaintiff is instructed that should he desire to amend his complaint, he must file a motion seeking leave from the Court to do so. Plaintiff must also attach any proposed amended complaint as an exhibit to the motion in accordance with the Rules.

In light of Plaintiff's *pro se* status, the court declines at this juncture to award costs to Defendants. Therefore, Defendants' motion is GRANTED with respect to striking the amended complaint and DENIED with respect to costs and fees.

SO ORDERED this, the 26th day of October, 2022.

/s/ Jane M. Virden

UNITED STATES MAGISTRATE JUDGE